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ATTORNEYS FOR PLAINTIFF
GREEN MOUNTAIN MYCOSYSTEMS, LLC

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

DAVID DEMAREST and GREEN
MOUNTAIN MYCOSYSTEMS LLC,

Plaintiffs,

vs.

RAIED J. ALFOUADI, et al.,

Defendants.

Case No.: 22-CV-00064 JAO KJM

**PLAINTIFF'S APPLICATION
TO PERMIT LATE FILING
NUNC PRO TUNC;
DECLARATION OF GLENN
KATON; CERTIFICATE OF
SERVICE**

Judge: Hon. Jill A. Otake
Trial Date: October 20, 2025

Plaintiff Green Mountain Mycosystems LLC applies to the Court pursuant to LR6.2 to permit the filing of its Proposed Findings of Fact and Conclusions of Law one day late, *nunc pro tunc*, based upon the following.

1. Pursuant to the Court's October 23, 2025 Minute Order (ECF 268), the parties were required to file their Proposed Findings of Fact and Conclusions of Law (FOF/COL) on December 1, 2025.

2. Counsel prepared Plaintiff's FOF/COL for filing on December 1, 2025, and counsel Glenn Katon thought he was filing it a few minutes before midnight on that date.

3. Counsel Katon is based in California and did not know that Hawaii does not observe daylight savings time. Thus, Plaintiff's filing was, in fact, made in the first hour of December 2, 2025. The filing bears the date stamp for December 2.

4. Co-Counsel Ryan Toyomura was out of the country during the days leading up to and including filing, so counsel Katon did not have the benefit of coordinating filing with counsel Toyomura.

5. Counsel for Plaintiff's mistake was inadvertent and not to gain unfair advantage.

6. Accordingly, Plaintiff moves the Court to permit the late filing *nunc pro tunc*.

Respectfully submitted,

/s/ Glenn Katon

GLENN KATON

Katon.Law

KEVIN W. HERRING

RYAN M. TOYOMURA

Ashford & Wriston, LLLP

Attorneys for Plaintiff

GREEN MOUNTAIN MYCOSYSTEMS LLC

DECLARATION OF GLENN KATON

1. I am counsel for Plaintiff Green Mountain Mycosystems LLC in the above-captioned case, admitted to practice *pro hac vice*.
2. I am based in California and when I filed Plaintiff's Proposed FOF/COL, I thought it was still December 1, Hawaii Standard Time. In fact, it was a few minutes before 1:00 a.m. HST. I was not aware that Hawaii does not observe daylight savings time.
3. Although I had prepared Plaintiff's Proposed FOF/COL with co-counsel Ryan Toyomura, he was out of the country from before Thanksgiving until after the filing of the FOF/COL. He was not, therefore, involved in finalizing the document and preparing it for filing, during which the correct time difference would have naturally come up between us.

4. Thus, Plaintiff's Proposed FOF/COL bears the date stamp December 2, 2025.

5. My mistake was inadvertent and not to gain unfair advantage.

6. I conferred with counsel for Defendant by email on December 8, 2025 about the circumstances surrounding the late filing and requested that Defendant stipulate to Plaintiff's application to file his Proposed FOF/COL one day late *nunc pro tunc*.

7. My requested provided: "I assume that under the circumstances, the late filing did not cause you any prejudice, but let me know if I'm wrong about that."

8. Defendant did not identify any prejudice caused by the late filing but declined Plaintiff's request.

I declare under penalty of perjury that the foregoing is true and correct.
Executed on December 10, 2025.

/s/ Glenn Katon
Glenn Katon

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CERTIFICATE OF SERVICE

On December 10, 2025, I served counsel of record in this case with the
foregoing document through the Court's ECF filing system pursuant to LR 5.6(c).

/s/ Glenn Katon

Glenn Katon
KATON.LAW

KEVIN W. HERRING
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Attorneys for Plaintiff
GREEN MOUNTAIN
MYCOSYSTEMS LLC